

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 574 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA sd/-

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO
- @

BRAHMACHARI WADI TRUST

Versus

GUNVANTBHAI RATILAL TRIVEDI

Appearance:

1. Appeal from Order No. 574 of 1995
MR AM PAREKH for Petitioner No. 1
..... for Petitioner No. 2
Ms.Anar Parikh for M/S TRIVEDI & GUPTA for Respdt No. 1-3
RULE SERVED for Respondent No. 4-6
RULE SERVED BY DS for Respondent No. 7-8
-

CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 27/09/2001

ORAL JUDGEMENT

1. After arguing the matter for some time Mr.Parekh,

learned Counsel for the appellant Trust - original defendant stated at the bar that this Appeal be disposed of without going into the merits of the case with direction to the trial Court to decide the Civil Suit as early as possible. He also submitted that the appellant defendant wants to file fresh Application before the trial Court in view of the changed circumstances if the permission is granted to it by the Corporation. As and when such application is filed the same be decided by the trial Court in accordance with law.

2. Ms. Anar Parikh appearing for the respondents stated at the bar that she has no objection if the trial Court is directed to decide the main Civil Suit as early as possible, but she submitted that this Court may not give any direction to the trial Court to decide the fresh Application after the permission for construction is obtained by the Trust from the Corporation.

3. In view of the above, without going into the legality and validity of the order this Appeal is disposed of with a direction to the learned trial Judge to decide the Civil Suit No.6436 of 1993 as early as possible and not later than 30th September 2002. The parties shall fully cooperate with the final disposal of the Suit before the trial Court. If it is permissible under the Law then the Appellant Trust may make fresh Application allowing it to make construction after obtaining necessary permission from the Corporation. The respondent - plaintiff can always raise their objection before the learned Judge as and when such fresh application is filed. I am sure that as and when such application is filed the said application will be decided by the trial Court in accordance with law including the question regarding its maintainability. With this observation and direction this Appeal is disposed of.

As the main Appeal from order is disposed of, Civil Application No.5520 of 1995 will not survive. The same is accordingly disposed of. Rule is discharged.

sd/-

Date : September 27, 2001 (B.J.Shethna, J.)

sas